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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

David Roberts MCMURTRY et al.

Group Art Unit: 2856

Application No.: 10/518,364

Examiner: T. NOLAND

Filed: December 17, 2004

Docket No.: 122069

For: METHOD OF CALIBRATING A SCANNING SYSTEM

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the July 19, 2006 Election of Species Requirement, Applicants provisionally elect Species I, claims 1-4, 6 and 9-12, with traverse. At least, claims 1, 2 and 9 are generic.

The Office Action states that the reason for requiring the Election Restriction is that:

The 1st species is a method of measuring an object on a coordinate positioning apparatus as initially described on page 5, lines 8-24 where at first object is measured at a slow speed and is believed to be claimed in claims 3-4, 6 and 10-12. The 2nd species is a method of measuring an object on a coordinate positioning apparatus as initially described on page 5, line 26-page 6, line 16 where a first objects is measured at a fast speed and is believed to be claimed in claims 5, 7 and 13. The 3rd species is a method of measuring an object on a coordinate positioning apparatus as initially described on page 8, line 33-page 9, line 17 and described as a third embodiment on page 20, lines 1-12 where an extrapolation to zero probe force is specified and is believed to be claimed in claim 8. (Alternatively, the relation of the

3rd species with respect to the 1st and 2nd species appears to be functionable as distinct subcombinations usable together.)

However, Applicants respectfully disagree with the Office Action's rationale for requesting the Species Election for the following reasons:

Species I

In claims 3, 4, 6 and 10-12, the first object is measured at a slow speed and the measurement data taken at this slow speed is extrapolated. However, in some of the claims (e.g. claims 4 and 5), the first object is also measured at a slow speed and the fast speed extrapolated data is compared to the fast speed data.

Species II

In claims 5, 7 and 13, the first object is measured at a fast speed and the measurement data taken at this fast speed is extrapolated. However, in some of the claims (e.g. claim 5), the first object is also measured at a slow speed and the fast speed extrapolated data is compared to the slow speed data.

Species III

Claim 8 describes the measurement data being collected at multiple probe forces. However, claim 1 also describes the measurement data being collected at multiple stylus deflections or probe forces. Thus, the search for claim 1 also would encompass the search for claim 8.

Therefore, it is respectfully submitted that the subject matter of all claims is sufficiently related that a thorough search for the subject matter of any one species would encompass a search for the subject matter of the remaining claims. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the

merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Thus, withdrawal of the Election of Species Requirement is respectfully requested.

Respectfully submitted,



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